

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0433 ST

Sales & Use Tax

For Tax Period Ending: 12/31/96

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ISSUE

I. Sales & Use Tax – Medical Equipment

Authority: 45 I.A.C. 2.2-3-20; 45 I.A.C. 2.2-5-35

Taxpayer protests the imposition of sales/use tax on a transaction involving medical equipment.

STATEMENT OF FACTS

Taxpayer sells surgical products at wholesale to the healthcare industry. The auditor assessed sales/use tax on a transaction described as a sale. Taxpayer protested the assessment and argued it was not a sale of medical equipment but a lease through a third party. Additional facts will be provided below, as necessary.

I. Sales & Use Tax – Medical Equipment

DISCUSSION

Pursuant to 45 I.A.C. 2.2-3-20, “all purchases of tangible personal property which are delivered to the purchaser for storage, use, or consumption in the state of Indiana are subject to the use tax.” Department Regulation 45 I.A.C. 2.2-5-35 states, “In general, all purchases of tangible personal property by a licensed

The auditor assessed sales/use tax on a transaction, totaling \$16,100, involving medical equipment because

the auditor determined the equipment was sold by the taxpayer to a practitioner directly and there was no tax-exempt certificate presented.

The taxpayer disputes the assessment. Taxpayer argues it sold the equipment to a third party who possessed a sales tax exemption certificate. The third party then leased the equipment to the practitioner and properly remitted the sales tax. Taxpayer has provided a copy of the third party's sales tax exemption certificate. Taxpayer has also provided the Department with a memo from the third party referring to the payments received by the taxpayer from the third party and placing liability for the payment of sales/use taxes on the third party.

FINDING

Taxpayer's protest is sustained.